

Message Text

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ACTION EB-11

INFO OCT-01 ARA-16 EUR-25 ADP-00 L-03 IO-13 ACDA-19 OPIC-12

SCI-06 XMB-07 OMB-01 TAR-02 AGR-20 AID-20 CIAE-00

COME-00 INR-10 LAB-06 NSAE-00 OIC-04 RSC-01 SIL-01

STR-08 TRSE-00 CIEP-02 CEA-02 AF-10 EA-11 NEA-10

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TAGS: EGEN, UNCTAD

SUBJ: UNCTAD: CHARTER OF ECONOMIC RIGHTS AND DUTIES

REF: STATE A-5604; GENEVA 3621 (NOTAL)

BEGIN SUMMARY: DISCUSSIONS IN WORKING GROUP ON CHARTER OF ECONOMIC RIGHTS AND DUTIES OF STATES PROCEEDING SLOWLY BUT SATISFACTORILY IN TWO WORKING PARTIES. FOLLOWING FIRST READING OF DRAFT PROPOSALS ON CHARTER, SMALL DRAFTING GROUPS WILL TRY REDUCE NUMBER OF ALTERNATIVE TEXTS (WHICH RUN AS HIGH AS EIGHT ALTERNATIVES FOR SOME PARAS) AND IF POSSIBLE AGREE ON PROVISIONS. AGREEMENT ON MUCH IS IMPROBABLE. DELS HAVE TENDED FOCUS ON FEBRUARY OUTLINE AND DRAFT TEXT OF CHARTER TABLED BY PHILIPPINES. WHILE REASONABLE IN PRIVATE, MEXICANS HAVE BEEN LESS SO IN PUBLIC SESSIONS. FOR FIRST TIME SINCE JOINING UNCTAD, CHINESE HAVE BECOME ACTIVE. USDEL HAS PLAYED SUBSTANTIAL ROLE, BASED ON US

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COMMENTS WHICH HAVE ATTRACTED FAVORABLE COMMENT.

DEVELOPED COUNTRIES HAVE HELD TOGETHER FAIRLY WELL SO FAR. END SUMMARY

1. WORKING GROUP (WG) ON CHARTER OF ECONOMIC RIGHTS AND DUTIES OF STATES PROCEEDING SLOWLY BUT SATISFACTORILY. NOTABLE FEATURES OF MEETING HAVE BEEN WIDESPREAD PARTICIPATION BY DELS INCLUDING TABLING OF MYRAID OF AMENDMENTS, ABSENCE THUS FAR OF EMPLOYMENT OF UNCTAD GROUP SYSTEM ON SUBSTANTIVE ISSUES, AND ACTIVE INTERVENTION OF MEXICO AND CHINA. MEXICANS UPSTAGED BY PHILIPPINES WHICH TABLED FULL TEXT OF DRAFT CHARTER (TD/B/AC 12/R.17). PHILIPPINE DRAFT IN TREATY FORM DRAWA HEAVILY ON LANGUAGE OF FEBRUARY OUTLINE (TD/B/AC/12/1). MOST COMMENTS HAVE FOCUSED ON THESE TWO DRAFT PROPOSALS WITH MUCH FAVORABLE COMMENT ON SECTIONS OF PHILIPPINE DRAFT WHICH COVER PREAMBLE AND RIGHTS AND DUTIES. QUESTION OF LEGAL STATUS OF CHARTER BROACHED BY US AND OTHER DELS IN PLENARY BUT CHAIR (CASTANEDA-MEXICO) AND LDC DELS COMMITTED TO RESOLVING ISSUE IN GA.

2. WORK HAS BEEN DIVIDED BETWEEN TWO WORKING PARTIES (WP) OF WHOLE. WP I, UNDER CHAIRMANSHIP KHALLAF (EGYPT) AND LATER MULIRO (KENYA) RESPONSIBLE FOR PREAMBLE AND FUNDAMENTAL PRINCIPLES. WP II UNDER CHAIRMANSHIP BRILLANTES (PHILIPPINES) RESPONSIBLE FOR REMAINDER OF CHARTER, NOTABLY RIGHTS AND DUTIES. WP I HAS COMPLETED FIRST READING AND SET UP SMALL DRAFTING GROUP (INCLUDING US) WHOSE FUNCTION WILL BE TO TRY REDUCE NUMBER OF ALTERNATIVES AND, IF POSSIBLE, DEVELOP COMMON TEXT. WP II LATE FRIDAY COMPLETED FIRST READING OF RIGHTS AND DUTIES AFTER LENGTHY INTERVENTIONS AND EXTENSIVE TABLING OF ALTERNATIVE DRAFT PROPOSALS.

3. NUMBER OF DRAFT ARTICLES HAVE BEEN VERY CONTROVERSIAL. LDCS (WITH SUPPORT OF SOCIALIST COUNTRIES) REACTED SHARPLY TO EFFORTS TO WATER DOWN RIGHT OF PARTICIPATION IN INTERNATIONAL ECONOMIC DECISION MAKING WHICH THEY CALLED BASIC TO ANY CHARTER. MUCH EMOTIONALISM ALSO DISPLAYED BY LDCS OVER RIGHTS OF PERMANENT SOVEREIGNTY OVER NATURAL RESOURCES AND RIGHTS OF DEVELOPING COUNTRIES TO CONTROL PRIVATE LIMITED OFFICIAL USE

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FOREIGN INVESTMENT AND MULTINATIONAL CORPORATIONS. IN THIS CONNECTION, US DEL AND CHILEAN DEL (SANTA CRUZ) HAVE HAD NUMBER OF EXCHANGES ON RELEVANCY OF INTERNATIONAL LAW IN CASES OF EXPROPRIATION. AMB SANTA CRUZ HAS EXPOUNDED ON CHILEAN DIFFICULTIES WITH AMERICAN COMPANIES AND HAS CITED SENATE HEARINGS REGARDING IMPLIED PARTICIPATION OF CIA. HE HAS STOPPED SHORT, HOWEVER, OF LEVELING DIRECT CHARGES AGAINST USG.

3. MEXICAN DEL MUCH MORE ACTIVE THAN IN FEBRUARY SESSION. CONTRARY TO HINTS GIVEN PREVIOUSLY, ITS PROPOSALS AND INTERVENTIONS HAVE TAKEN TOUGHER PRO-LDC LINE THAN DRAFT OUTLINE OR PHILIPPINE DRAFT, RATHER THAN STRIVING FOR WIDER CONSENSUS OR ACCEPTABILITY. FOR EXAMPLE, DEL GENERALLY BACKED EXTREME CHILEAN LINE ON PERMANENT SOVEREIGNTY (E.G. THAT ESTABLISHED INTERNATIONAL LAW IS COLONIALIST AND OBSOLETE AND MUST BE REVISED IN ACCORDANCE WITH SELECTED UN RESOLUTIONS AND PARTICULARLY UNCTAD BOARD RES 88 (XII)) AND PROPOSED NEW PARA ON FOREIGN INVESTMENT SUBSTANCE OF WHICH IS TO REQUIRE STATES TO REFRAIN FROM INTERVENING IN DISPUTES ON BEHALF OF THEIR NATIONALS. CONTRARY TO REASONABLE ATTITUDES EXPRESSED IN PRIVATE, MEXICAN REP (GONZALEZ GALVEZ) HAS TENDED BE PROVOCATIVE IN PUBLIC SESSIONS. ON NUMBER OF OCCASIONS HE HAS TRIED BROW-BEAT DELS INTO ACCEPTING LDC PROPOSALS, FOR EXAMPLE, BY IMPLYING THAT FAILURE TO SUPPORT ALL GENERAL PRINCIPLES IN CHARTER I OF OUTLINE WAS TANTAMOUNT TO OPPOSING CHARTER AND MEXICAN INITIATIVE. WHEN UK REITERATED POSITION THAT WG NOT COMMITTED TO DRAFTING LEGAL DOCUMENT, GONZALEZ GALVEZ ACCUSED UK OF REOPENING ISSUE ALREADY RESOLVED. HE ALSO CRITICIZED US DEL FOR SUGGESTING STATES HAVE DUTIES TO FOREIGN INVESTORS. NEVERTHELESS RELATIONS USDEL WITH MEXICAN DEL REMAIN CORDIAL.

4. FOR FIRST TIME SINCE JOINING UNCTAD, PRC DEL HAS BECOME ACTIVE. IT HAS SUBMITTED NUMEROUS PROPOSALS MOST OF WHICH FOLLOW USUAL THEMES AGAINST COLONIALISM, IMPERIALISM, PLUNDER, NEOCOLONIALISM AND BIG POWER HEGEMONY. IN TAKING REVOLUTIONARY LINE, CHINESE MAINTAINED FEBRUARY RESERVATIONS ON NUMBER OF PET PROPOSALS FAVORED BY LDCS. FOR EXAMPLE, PRC HAS CALLED FOR EXCLUSION LIMITED OFFICIAL USE

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OF PARA ON DISARMAMENT ON GROUNDS DISARMAMENT WOULD LEAVE STATES VULNERABLE TO BIG POWERS. ALSO, IT HAS OBJECTED TO REFERENCE TO INTERNATIONAL DIVISION OF LABOR BECAUSE IT USED AS EXCUSE FOR PLUNNDER.

5. USSR AND IRAQ HAVE PROPOSED SEVERAL TEXTS WHICH HAVE HIGH POLITICAL CONTENT AND ARE OF QUESTIONABLE RELEVANCE IN CHARTER PURPORTING TO DEAL WITH ECONOMIC AFFAIRS.

6. OUTLOOK IS THAT DRAFTING COMMITTEES WILL SUCCEED IN REDUCING SOMEWHAT MULTIPLICITY OF PROPOSALS BUT WILL PROBABLY NOT REACH CONSENSUS ON CRITICAL SUBSTANTIVE DIFFERENCES. USDEL INTENDS MAINTAIN POSITION ON MATTERS OF SUBSTANCE, SUGGESTING DIFFERENCES BE RECORDED BY

BRACKETED PROVISIONS, AND IS SO ENCOURAGING GROUP B
(DEVELOPED COUNTRIES) DELS.

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